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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,283	06/01/2006	Juergen Dohmann	4601-0113PUS1	3130

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BIRCH STEWART KOLASCH & BIRCH  
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FALLS CHURCH, VA 22040-0747

EXAMINER
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BONK, TERESA

ART UNIT	PAPER NUMBER
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3725

NOTIFICATION DATE	DELIVERY MODE
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03/25/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,283	<b>Applicant(s)</b> DOHMANN ET AL.	
	<b>Examiner</b> Teresa M. Bonk	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,7-21 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 and 26-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-21 and 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 7-12, and 32, rejected under 35 U.S.C. 102 (Harada), have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the rejection under 35 U.S.C. 112, second paragraph, to claims 1, 7-15, and 32, that was set forth in the Office action mailed November 13, 2009, was not addressed by Applicant in their response received on December 14, 2009. Therefore, this rejection is repeated below in this Office action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 7-15, and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claim 1, line 16, the limitation "said die members are in closed position" is inoperable since the die members were already in a closed position as set forth on lines 9-10. For examination purposes, the Examiner understands the line to mean "once said *punch* members are in said closed position."

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-12 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiokawa (Pub. No. US 2004/0044439).

With regards to claim 1, Shiokawa discloses a die apparatus for performing a flashless forging operation to manufacture a toothed portion of a steering rack, said die apparatus comprising: first and second die members (12 and 14) and first and second punch members (20A and 20B), each having a forming surface shaped substantially as an obverse of a portion of said toothed portion, and at least a portion of the forming surface of said first die member being shaped substantially as an obverse of teeth of said rack [Paragraph 0109], wherein said first and second die members are moveable towards each other along a first axis [considered to be the vertical axis; i.e. up and down] to a closed position thereby partially forging said toothed portion from a blank placed in said die apparatus and forming a substantially closed cavity defined by said forming surfaces [Paragraph 0114 and shown in Figure 6B], said first and second punch members being disposed on opposite sides of said cavity, as seen in Figure 2, between said first and second die members, and said first and second punch members being adapted to move towards each other along a second axis [considered to be the horizontal axis; i.e. left to right]

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substantially perpendicular to said first axis, into said cavity, once said punch members are in said closed position, thereby completing said forging operation [Paragraphs 0018 -0120].

With regards to claims 7 and 8, Shiokawa discloses wherein said punch members are moveable by means of a mechanism operated by said die apparatus closing and wherein said mechanism comprises at least one wedge member (holders 38) adapted to urge said punch members into said cavity.

With regards to claim 9, Shiokawa discloses wherein at least one of said die members is supported by a hydraulic cylinder (32) pressurized by means of said die apparatus closing [Paragraphs 0148 and 0155].

With regards to claim 10, Shiokawa discloses wherein a cross section of said toothed portion is substantially D-shaped, as seen in Figure 6C.

With regards to claims 11 and 12, it is noted that the particular type of blank used in the apparatus is not a patentable distinction. Shiokawa discloses an apparatus that is capable of use with a solid bar and/or a cylindrical blank.

With regards to claim 32, Shiokawa discloses wherein said punch members are moveable by means of a mechanism operated by a motion of said die apparatus closing, said mechanism comprising first and second wedge members (holders 38) adapted to urge said first and second punch members, respectively, into said cavity, and at least one of said die members is supported by a hydraulic cylinder (32) pressurized by means of said die apparatus closing [Paragraphs 0148 and 0155].

***Allowable Subject Matter***

Claims 13-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa M. Bonk whose telephone number is (571)272-1901. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Teresa M. Bonk/  
Examiner, Art Unit 3725